

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
OCTOBER 14, 2020**

**CALL TO ORDER
6:00 PM**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. in the Expo Building at the County Fairgrounds, 265 N. Meridian Rd., Kalispell, MT 59901. Board members present were Sandra Nogal, Dean Sirucek, Greg Stevens, Jeff Larsen, and Elliot Adams. Ron Schlegel, Kevin Lake, and Mike Horn had an excused absence. Jim Thompson had an unexcused absence. Erin Appert, Erik Mack, and Mark Mussman represented the Flathead County Planning & Zoning Office.

There were approximately 32 members of the public in attendance.

**APPROVAL OF
MEETING
MINUTES
6:01 PM**

Nogal made a motion, seconded by Sirucek, to approve the September 9, 2020 meeting minutes.

Motion passed on a 5-0 roll call vote.

**PUBLIC
COMMENT
*(Public matters that
are within the
jurisdiction of the
Board 2-3-103
M.C.A)*
6:01 PM**

Mark Johnston, 970 Columbia Falls Stage, stated there was a list of people that were not able to attend the meeting tonight due to health concerns. He wanted to make the list a part of the public record and handed it to the Board Chairman.

**DISCLOSURE OF
ANY CONFLICT
OF INTERESTS
6:02 PM**

None

**PROCEDURAL
OVERVIEW
6:02 PM**

Larsen went over procedure for public hearing.

**ROLLING ACRES
SUBDIVISION
(FPP-20-11)
6:03 PM**

A request from Betty Trueblood and Unique Realty Developer, Inc., with technical assistance from TD&H Engineering, Inc. for preliminary plat approval of Rolling Acres Subdivision, a proposal to create 77 residential lots on 114.39 acres. The property is located on the west side of Columbia Falls Stage, north of Kingfisher Lane. The proposal would be served by shared wells and individual septic systems and access to each lot would be from new internal subdivision roads via Columbia Falls Stage.

The public comment portion has been closed for this agenda item.

**BOARD
QUESTIONS
6:04 PM**

None

Roger Sullivan, Esq., with McGarvey Law, asked for point of order to confirm that the board had received the rebuttal that he had submitted for review. Larsen confirmed they had.

**MAIN MOTION
TO ADOPT F.O.F.
(FPP-20-11)
6:05 PM**

Stevens made a motion, seconded by Nogal, to adopt staff report FPP-20-11 as findings of fact.

**BOARD
DISCUSSION
6:05 PM**

Larsen said there was quite a bit of information on the findings. The board had a presentation made by a planning consultant, hired by the opposition, who had done thorough job with the analysis of the subject application. His concern was with the completeness with the application. There was information which did not meet the requirements of state law. He went through the requirements in the subdivision regulations and spoke about whether or not the proposal met those requirements in detail. He had asked the director about those requirements and was told that some of them could be waived. Larsen read the regulations. He felt the documents from the applicants in order to support the waiver was missed.

He stated they had to amend finding #2 because it did not meet state law. That was his biggest concern because it was singled out in state law.

**MOTION TO
AMEND F.O.F #2
(FPP-20-11)
6:16 PM**

Larsen made a motion, seconded by Stevens, to amend finding of fact #2 to state:

~~2. The proposed subdivision would have minimal impact on water and wastewater services as the property is not located within a water and sewer district, the proposed subdivision would utilize shared wells, individual septic systems, and a community sand mound septic system, and the water and wastewater systems would be required to be reviewed and approved by the Flathead City-County Health Department and the Montana Department of Environmental Quality as applicable. The impact from the proposed water and~~

wastewater services would not be acceptable because they are not compliant with the Flathead County Subdivision Regulations. [Conditions 2, 19]

**BOARD
DISCUSSION
6:17 PM**

None

**ROLL CALL TO
AMEND F.O.F #2
(FPP-20-11)
6:17 PM**

Motion passed unanimously on a roll call vote

**ROLL CALL TO
ADOPT F.O.F. AS
AMENDED
(FPP-20-11)
6:18 PM**

Motion was passed unanimously on a roll call vote.

**MAIN MOTION
TO RECOMMEND
DENIAL
(FPP-20-11)
6:19 PM**

Stevens made a motion, seconded by Adams, to recommend denial of FPP-20-11 to the Flathead County Board of County Commissioners.

**BOARD
DISCUSSION
6:19 PM**

Stevens stated the reason he made the recommendation was because of everything Larson stated. He found the report by McMahon to be persuasive. He did not want to forward a recommendation to the Commissioners that was incomplete. He wanted to make the point that he did not find the report by Dr. Weight to be persuasive, overriding anything that DEQ might have done. DEQ was a tough organization to make happy and Dr. Weight's report did not include as much actual, on the ground, research as the applicant. The reason he was voting against it was based on the report by McMahon that showed the application was incomplete. He cautioned the applicant that, although he is basing his recommendation on the report, he wanted them to be aware that there were some other issues he was concerned about. He typically looked at health, safety, and general welfare. He wanted to make that known.

Sirucek spoke about the design. He saw a township plan that a person would see from the 1860's in Minnesota or Wisconsin; basically a small town was being proposed without proper water and sewage treatment. He had five major concerns with the proposed subdivision. He spoke in great detail about the soil deposits and how water was transmitted through. He spoke about the environmental report which had tapped into 3 wells. He described the different sediment layers within those three wells. He discussed the

impermeable layers and details of the findings of that report. He was concerned there could be a melt water channel running through the middle of the acreage; the current sampling would not show that. His other concern was that it was prime farmland; some of the very best farmland within the United States. He talked about climate change and the effects it would have on water availability. On a national perspective, this land was some of the very best, and in the future *will* the very best, prime farmland in the country. He rejected the idea that because it was only small acreage, it did not matter. He grew up on a dairy farm in the valley and discussed his family history in agriculture; his point being was that just because it was a small amount of acreage, did not mean it was not viable. He also brought up that he had, at the last meeting, expressed his concern about the power lines and the electromotive force (EMF). He was concerned about that and felt it needed to be addressed due to public safety. He revisited the discussion about not having local planning in the area and felt that they had heard from the local community what they would like to see in their area if a local plan had been developed. Those people would have put a plan together if given the chance. He could not vote in favor of this proposal.

Larsen commented there was a lot of work done by the opposition and he wanted to address that. He addressed the well issues and Dr. Weight using data on existing wells to project what he thought the draw down would be on the neighbor's wells. He had asked Dr. Weight if he had any site-specific data and he did not. Based on Larsen's engineering experience, there needed to be site-specific data to accurately project that. That analysis was not convincing to him. He explained in depth that Dr. Weight's non-degradation analysis used data that was not site specific and used data from sites that were not always accurate enough to use in a non-degradation analysis. The analysis was also not done in performance of the DEQ requirements of the nondegradation analysis. The elevations from the model were not accurate because of the database it was taken from [was not always accurate]. In his opinion, as an engineer, a model was only as good as the worst data that was put into it. When asked, Dr. Weight said he did not have time to do site-specific data. He did not think that was an excuse to not do a sufficient job on a model. As an engineer, when he works on projects, he tells people that the most important thing is to have an accurate base map/data. It was like the foundation of a house. WEC had submitted their information to DEQ and their information, that they had presented and prepared, was done to the standard of DEQ requirements. They had site specific data which DEQ accepted and approved. Larsen reiterated what he had said earlier that his confliction was with the findings. McMahon's analysis was very thorough and she did a professional job. There were some things in her analysis that he did not agree with but there were a lot of things that he did agree with. He agreed that he did not think the waiver criteria had been met. He did not agree with her analysis about the stormwater and what would be required would meet the state statutes. She had said that they did not meet the Fish, Wildlife, and Parks

setbacks but he pointed out they were recommendation not requirements. He also wanted to address some of the public comments made from the last meeting. He summarized some of those comments from concerned neighbors. These concerns of impact are often voiced during subdivision hearings and he informed them that, when he reviewed a subdivision, he looked at the conditions to see if they addressed the concerns of public health and safety issues. He read some of the conditions and explained how they pertained to some of the concerns. He explained this in great detail. He concluded that he was going to support the motion to deny because it did not meet the sufficiency requirements under state law.

**ROLL CALL TO
RECOMMEND
DENIAL
(FPP-20-11)
6:42 PM**

Motion passed unanimously on a roll call vote.

**AMENDED
SUBDIVISION
PLAT OF LOT 10,
HOMES ON A
THOUSAND
HILLS
(FPP-20-16)
6:45 PM**

A request from Ben & Krista Van Helden, with technical assistance from Environmental Health Consulting for preliminary plat approval of the Amended Subdivision Plat of Lot 10, Homes on a Thousand Hills, a proposal to create four (4) residential lots on 20 acres. The property is located at 174 Shepherd Trail and would be served by individual wells and septic systems. Access to each lot would be from Shepherd Trail.

**STAFF REPORT
6:46 PM**

Erin Appert reviewed staff report FPP-20-16 for the board.

**BOARD
QUESTIONS
6:47 PM**

None

**APPLICANT
PRESENTATION
6:47 PM**

Ben VanHelden, 17 1st Ave E, was the applicant and was available for questions.

**BOARD
QUESTIONS
6:47 PM**

Nogal asked how they came up with the lot sizes. VanHelden replied it had been laid out with the contour of the land. Knowing the real estate market, he felt that having a variety of lot sizes was the goal.

**AGENCY
COMMENTS
6:48 PM**

No agencies were present to comment. Written comments were reviewed in the staff report.

**PUBLIC
COMMENT**
6:48 PM

None.

**MAIN MOTION
TO ADOPT F.O.F.**
(FPP-20-16)
6:49 PM

Stevens made a motion, seconded by Sirucek, to adopt staff report FPP-20-16 as findings of fact.

**BOARD
DISCUSSION**
6:49 PM

None

**ROLL CALL TO
ADOPT F.O.F.**
(FPP-20-16)
6:49 PM

Motion was passed unanimously on a roll call vote.

**MAIN MOTION
TO RECOMMEND
APPROVAL**
(FPP-20-16)
6:50 PM

Stevens made a motion, seconded by Adams, to recommend approval of FPP-20-16 to the Board of County Commissioners.

**BOARD
DISCUSSIONS**
6:50 PM

Nogal wanted to acknowledge the letter by West Valley Land Use Advisory Committee (WVLUAC) regarding the issue of the septs and water infrastructure. She understood the concern but noted that the proper agencies will take care of that.

**ROLL CALL TO
RECOMMEND
APPROVAL**
(FPP-20-16)
6:51 PM

Motion passed unanimously on a roll call vote.

**JEWEL OF ECHO
SUBDIVISION**
(FPP-20-17)
6:52 PM

A request from Michael & Julie Thompson, with technical assistance from Sands Surveying, Inc. and 406 Engineering Inc. for preliminary plat approval of Jewel of Echo Subdivision, a proposal to create five (5) residential lots on 25.700 acres within the Bigfork Zoning District, zoned SAG-5 (Suburban Agricultural). The property is located just South of 255 Echo Chalet Drive and primary access to each lot would be from an internal subdivision road accessed directly from Echo Chalet Drive. The lots would be served by individual wells and septic systems.

STAFF REPORT

Erik Mack reviewed staff report FPP-20-17 on behalf of Laura Mooney for the

6:53 PM

board.

**BOARD
QUESTIONS
6:54 PM**

Larsen asked about the 30' easement on the variance and if that was smaller than what they approved on variances before. Mack recounted the smallest he could think of was a 40' easement. Larsen asked how wide the road was. Mack recalled that he saw 15' wide. A normal subdivision road would be 22' wide.

Larsen asked if the approval of the variance would be a separate motion and Mack confirmed they would need to approve that separately.

**APPLICANT
PRESENTATION
6:55 PM**

Eric Mulcahy, Sands Surveying, Inc., 2 Village Loop, represented the applicants. The proposal was a five-lot subdivision on a piece of property that they had owned for approximately 25 years on Echo Lake. Their house was north of this land. They were complying with the existing zoning. 406 Engineering had done the sewer and water layout. They had worked with DEQ for the last two years on this project. When they started the subdivision, they had their pre-application meeting with the county and had reviewed the interior subdivision access road, which was Echo Chalet Drive. The road was a private road. He discussed the easement and need for the variance. There as a road maintenance association in which approximately 70% of people pitch in to maintain the road. The variance would address their proportionate share of Echo Lake Drive, which worked out to about 120'. If the variance was denied, they would have to widen that part of the road. The Fire Chief was fine with that assessment. The applicants had done fuels reduction over the years. The variance was just for the subdivision primary access road. The internal road would be built to full county standards.

**BOARD
QUESTIONS
6:59 PM**

Larsen asked if the variance was for the consideration of whether they were going to pave that 120' of existing road. Mulcahy said it would be to add 7' of pavement to an already paved road. Larsen questioned where the exact placement would be and they discussed this.

Larsen asked if they were to deny the variance would they have to pave a half mile away. He asked what was set in stone. Mulcahy believed it stated where the county road starts but they had asked, in a variance, to move that improvement closer to the subdivision. It could go either way as directed by the county.

**AGENCY
COMMENTS
7:01 PM**

No agencies were present to comment. Written comment had been reviewed in the staff report presentation.

**PUBLIC
COMMENT**

None

7:01 PM

**MAIN MOTION
TO ADOPT F.O.F.
(FPP-20-17)
7:02 PM**

Stevens made a motion, seconded by Nogal, to adopt staff report FPP-20-17 as findings of fact.

**BOARD
DISCUSSION
7:02 PM**

None

**ROLL CALL TO
ADOPT F.O.F.
(FPP-20-17)
7:02 PM**

Motion passed unanimously on a roll call vote.

**MAIN MOTION
TO RECOMMEND
APPROVAL
(FPP-20-17)
7:03 PM**

Stevens made a motion, seconded by Sirucek, to recommend approval of FPP-20-17 to the Board of County Commissioners.

**BOARD
DISCUSSION
7:03 PM**

Adams asked if they should address the variance now by making a motion of approval or denial.

**MOTION TO
ACCEPT THE
VARIANCE
(FPP-20-17)
7:03 PM**

Adams made a motion, seconded by Stevens, to accept the variance for FPP-20-17.

**BOARD
DISCUSSION
7:03 PM**

None

**ROLL CALL TO
ACCEPT THE
VARIANCE
(FPP-20-17)
7:03 PM**

Motion passed unanimously on a roll call vote.

**BOARD
DISCUSSION**

Sirucek had personal history with this property and was sad to see it subdivided. He was a part of a team that put together a septic system risk

7:03 PM

assessment for Flathead County and explained in detail their assessment of the nutrients. He spoke of the changes in the lake because of the ingrowth of organic material. He said Echo Lake was dying and explained the reason why. The proposal was not as bad for environmental as the development to the south, but it was hard to say the cumulative effects of adding more phosphates was going to make it better. He was torn on how to vote on this. He saw Echo Lake as a little treasure. He could testify to the effects of the south bay. He had gone scuba diving as a teenager there. The ingrowth of the vegetation had gotten bigger and bigger and deeper and deeper. It was not a good situation.. He also stated that the laws that deal with septic tanks could not address that situation.

Larsen said the project was in compliance with the zoning in the area.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FPP-20-17)
7:09 PM**

Motion passed unanimously on a roll call vote.

**STORAGEMAX
SUBDIVISION
(FPP-20-18)
7:09 PM**

A request from Sands Surveying, on behalf of StorageMax, LLC for preliminary plat approval of StorageMax Subdivision, a proposal to create two (2) commercial lots on 5 acres. The property is located at 3190 Montana Highway 35 near Kalispell, MT and would be served by an existing well and septic systems.

**STAFF REPORT
7:10 PM**

Erik Mack reviewed staff report FPP-20-18 for the board.

**BOARD
QUESTIONS
7:11 PM**

None.

**APPLICANT
PRESENTATION
7:09 PM**

Eric Mulcahy of Sands Surveying, Inc., 2 Village Loop, represented the applicants. The property was out on 35 and had two existing uses, one that used to be a church, a residence, and a mini storage (which had been under construction for a couple of years). The applicants wanted to split the mini-storage from the commercial. The mini-storage did not require review of sewer or water but there was a stormwater plan to address the facilities. He spoke to Gary Mahugh of the fire district, who was frustrated with the corridor, although there was not really anything they could do because the uses are already present. They were comfortable with the conditions as recommended.

BOARD

None

QUESTIONS*7:13 PM***AGENCY
COMMENTS***7:13 PM*

No agencies were present to comment. Written comments were reviewed in staff report

**PUBLIC
COMMENT***7:14 PM*

Cindy Countryman, 208 Cardinal Ln, spoke in opposition of the application. She addressed the density of the location in the immediate vicinity of the mini-storage. She discussed future development that was already in the works. She was concerned about the highway traffic not having a left-hand turn lane and a 75-mph speed limit, which was way too high for the area.

Tom Countryman, 208 Cardinal Ln., spoke in opposition of the application. MDOT was currently doing a traffic study on highway 35, which will be based on the existing development. He was concerned about the development that was occurring in that area and felt safety with the entrance into the highway needed to be addressed. He reiterated that the fire chief had addressed that the traffic on the corridor needed to be addressed before more people were killed.

**APPLICANT
REBUTTAL/
COMMENTS***7:17 PM*

None

**STAFF
REBUTTAL/
COMMENTS***7:17 PM*

Mack addressed that the two subdivisions being developed in that area were Countryside Estates Phase I and Phase II and the Planning Board had recommended, and the Commissioners approved, conditions that those applicants were to provide a frontage road. He believed the southern portion of this property would line up with that easement.

**MAIN MOTION
TO ADOPT F.O.F.
(FPP-20-18)***7:17 PM*

Stevens made a motion, seconded by Sirucek, to adopt the findings of fact for FPP-20-18.

**BOARD
QUESTION***7:17 PM*

Nogal addressed that she agreed that there was an issue with the density with the traffic situation as it is. She said it sounded like a disaster and wanted to make sure that MDOT would be looking at it (i.e. egress). Mack said the Commissioners determined, at final plat, if what they are asking for is reasonable.

**ROLL CALL TO
ADOPT F.O.F.**

Motioned passed unanimously on a roll call vote.

(FPP-20-18)
7:19 PM

**MAIN MOTION
TO RECOMMEND
APPROVAL
(FPP-20-18)
7:20 PM**

Stevens made a motion, seconded by Adams, to recommend approval of FPP-20-18 to the Board of County Commissioners.

**BOARD
DISCUSSION
7:20 PM**

Larsen heard what the Countymans were saying. They had recommended denial of the second phase, but the Commissioners approved it. That subdivision added a lot of density. He understood the concern over traffic. This subdivision was different because the uses were already there, and it would not be adding anymore traffic.

Stevens agreed with Larsen.

**ROLL CALL TO
RECOMMEND
APPROVAL
(FPP-20-18)
7:21 PM**

On a roll call vote the motion passed unanimously.

**OLD BUSINESS
7:22 PM**

None

**NEW BUSINESS
7:22 PM**

Mussman said he would have Jerry Sorenson start the discussion for the AG representatives.

Jerry Sorensen, 15 Lee Rd., said the reason he was here today was because they had put together, about 6 years ago, an informal group of about 20 people who were AG and Timber Landowners. He named some of the people that were present tonight. They had come together to look at the issue of what the future of timber and agriculture was going to look like in the valley; if they could do anything in the future to promote that in a way that was positive for those who wanted to keep harvesting and also positive for the economy. They had a lot of ideas but not any solutions. They had met with the County Administrator, Mike Pence, and each of the Commissioners individually. They were all very interested in their concerns. They suggested that they talk with the Planning Dept. to talk about the issue and be part of the discussion going forward. It came to their attention that the Growth Policy would be updated soon. Pence felt there might be an opportunity for them to take part of the discussion to help protect agriculture or maintaining. They were "property rights" people. They were not interested in regulation as much as they were

interested in way they could promote and maintain the agricultural economy. One of the ideas they tossed around was creating a non-regulatory ad-hoc committee, under the umbrella of the Planning Board, that would be a group of 7-9 people that would occasionally meet to talk about these issues as to try and provide recommendations/advice/sounding board for the Planning Board as they went through the process of updating the Growth Policy. Their quest today was that they would like the Planning Board to authorize them as an ad-hoc committee under their discretion. They desired to work with them, on an occasional basis, as they worked on some of the policy and ideas. They felt they could provide some valuable input to the Planning Board, from a private landowner perspective.

Paul McKenzie, with Stoltze Land & Lumber Co., said they had worked with a lot with small/medium sized private landowners, as well as state and federal landowners, to help them meet their land management objectives. It was not getting easier. The under pending of the land use that we have in our valley, the agriculture and forestry, brings a lot to our communities; economically, recreationally, and visually. Protecting some of those attributes was a good goal for the future. He had experience with attending the meetings and knew that, when there is a sway of growth, there was also a push for regulation. They wanted to see what options they had to preserve agriculture and timber while also preserving the rights of property and landowners. They regularly worked with groups to develop nonregulatory solutions and their community could be a resource for planning to bring some benefit to the future.

Mark Schiltz, 275 Echo Lake Rd., spoke about [his family] farming on Echo Lake Rd. for over 100 years. He had a degree in geology, worked in mining exploration around the world, and came back in 1990 to manage the family farm. He felt the board had an opportunity to listen to a whole range of producers in the valley who wanted to farm and had a right to farm. He spoke of the law that protected landowners who were farmers from future landowners who want to take away that right to farm in the form of nuisance ordinances such as noise, dust and other types of agricultural impacts. He read MCA 76-2-901. It was an understatement to say that the Planning Board was not aware of the impacts and growth were having now, and the impacts that it was having on agricultural lands. He urged them to consider a "Right-to-Farm Board" made up of producers who care about the land and the agricultural uses of the land in this valley; and get their hands dirty doing it.

Scott Mast, 1595 Egan Slough Rd, was a part of a family that had been farming for close to 100 years and wanted to continue to do so. He knew that agriculture in the area had also been a big part of the esthetics and was practical management. He wanted to lend a helping voice on those aspects when decisions are made involving the view, management of the ground, and access.

Larsen said he appreciates them coming in.

Mussman addressed board member attendance. He acknowledged that there were several absences this evening but noted Jim Thompson had not attended a meeting or been in contact with us for quite some time. Mr. Thompson's family had contacted the office and expressed growing concern over his health and concern for his safety and wellbeing as his memory had worsened. The by-laws allowed the board to retire a member after 4 unexcused consecutive absences. Mussman recommended sending him a letter, thanking him for his service, and having a new member appointed that could attend the meetings. It was up to the board to give direction.

Stevens asked what the procedure would be. The board and Mussman discussed procedure and appropriate protocol based on the by-laws. Stevens wondered if we should contact him before taking action. Mussman reiterated that we had tried to contact him on many different occasions. Larsen said if they were to make a decision, they would want him to be able to serve his term through the end of the year. Mussman said they could do that and they would advertise for an open seat, asking for volunteers, to fill the open seats.

Larsen said he was ok with that because a family member had reached out to make that request.

**MOTION TO
REMOVE JIM
THOMPSON
FROM THE
BOARD
7:43 PM**

Larsen made a motion, seconded by Adams, to remove Jim Thompson from the Flathead County Planning Board at the end of the year.

**BOARD
DISCUSSION
7:43 PM**

Larsen said that he wanted it to be a nice letter written to him and his family.

Sirucek echoed that sentiment and said he had a lot of years of service [to the community].

**ROLL CALL TO
REMOVE JIM
THOMPSON
FROM THE
BOARD
7:43 PM**

Motion passed unanimously on a roll call vote.

**CONTINUATION
OF NEW
BUSINESS**

Mussman spoke about getting an application for the bridge removal that they may have to review at the January Meeting. The plaintiffs in the lawsuit were hopeful that the bridge will be removed before the water comes up in 2021.

7:44 PM

That cannot happen unless there is an application to review in the very near future.

Mussman spoke about the subdivision regulations and second primary access; may vs shall. He read the currently regulations and questioned if it was permissive (“may”) or a requirement (“shall”).

Larsen said there was a lot of work put in by a committee to rewrite those regulations. They had to make it be vague because they had a previous planning director that made it very difficult to do a subdivision. He was opposed to changing it.

Mack said he had been dealing with this with the MACO Attorneys and County Attorneys. This was mostly due to a subdivision that had been denied a few years ago, due to a secondary access issue, is now coming back to life. The attorneys’ input was if it should be changed to “shall be required”, with limitations (i.e. if it was in the Wildland Interface, floodplain, etc.) to justify it. Only in certain instances, it would be required.

Stevens questioned why they had to reconsider changing the subdivision regulations because of the county and MACO attorneys. Mack said it was because of the lawsuit for Raceway Park. Stevens wondered what MACO had to do with it. Mack said they were involved with the lawsuit for Raceway Park. The reason why that application had been denied, was because of the secondary access issue. MACO was saying there was an issue with the way that it was written and should be addressed. It was up to them on how and if it should be addressed. He was only relaying the information that he was given by the attorneys.

Larsen said there was a lot of work done in rewriting the subdivision regulations. It was a two-year project and this was one of the biggest items that they had looked at. There were a couple different places in the regulations addressed secondary access. If they were to change that, he wanted to see who was on the committee to make sure that they were aware of that.

Adams asked if 200 average daily trips meant 20 lots. Mussman confirmed it was. Adams said he would not support that. Mussman asked if there could be a size of a subdivision that could require secondary access? He said that was what it boiled down to. He asked about a 50 lot subdivision or, depending on where it was, a 20 lot subdivision, deep in the woods was something to think about.

Mussman said that another thing that had come up, and would come up again, was the definition of primary access easement. It was going to come up in the Baker 80 Application which will be heard in December.

Stevens said he got nervous about enacting legislation aimed at one particular property owner. Mussman said it wouldn't be. Stevens said it was certainly generated towards one particular property owner. Mussman questioned if that was how all change occurred; starting with one particular instances, which everyone focuses on, but it could affect and benefit lots more.

Stevens said he would wait to see what happened but the wishes of the MACO and County Attorneys were not persuasive [to him]. Mussman said that [Stevens] did not have to defend decisions made by the commission.

Sirucek asked if Planning and Zoning was going to come forward with a text amendment. Mussman said he would pass on to the County Attorneys, after this discussion, that the reception of [this topic] was not received well by the Planning Board [as it was currently]. They would have to sharpen their pencils and come back to have more discussion.

Larsen wanted to contact those who had worked on the committee that rewrote the subdivision regulations for input. They had worked for two years on it. They knew it inside and out. He asked that they look up to see who was on the committee. He did not want to rush into. He was not opposed to fixing a problem but wanted to make sure that they didn't do something that would cause more problems.

Adams asked what specific problem they were trying to solve. Mussman said this was generated from one specific instance and perhaps it didn't reflect on a lot of other developments. He discussed the details of Raceway Parkway and the issues with their primary and secondary access.

Larsen said that Stevens was right, they were being asked to change the regulations based on a specific instance. Stevens understood the issue of secondary access but it depended on the topography of the land. Stevens felt it required some thought before they agreed to it.

Sirucek agreed with Stevens. He brought up the issue of two developments last year that had secondary access issues due to the fire danger within those areas. He felt some criteria needed to be thought about, and laid out, for different perspectives. It would take some time. Stevens said that, as it was, the Commissioners could waive those concerns. They could say that certain situations would need a secondary access while someone else may not, depending on the situation. If it said "may" then they could do that.

Larsen discussed WUIs. He did not want to lock people in. He questioned if the regulations stated that if there was a fire suppression system installed, they "shall" have a secondary access. Mussman said he would have to look.

Mussman discussed the issue that Raceway Park had in detail; the primary and

secondary access was in the same location, which proved to be an issue. Larsen brought up that it said "may" require and they did require one. Mussman said the issue was that some denials would be harder to defend, with that criteria, than others. Larsen did not understand why they could not defend that if it was an issue of health and safety.

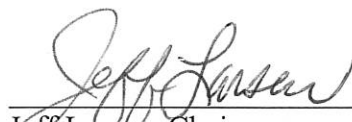
Adams felt it was a blanket regulation to apply. The problem that was trying to be fixed may not be a real problem anyways. If there was an issue, the Commissioner could require it anyways. He was opposed to fixing something that was not broken.

Larsen wanted it communicated [to the Commissioners] that they were skeptical to have that reworded. The Commissioners had the latitude to do what they did. It was a unique situation.

Mussman said that, the other thing that could be on the horizon, is to address the possibility of subdivision regulation amendments dealing with exemptions to the subdivision and platting act. Larsen asked what they would have to do with that. Mussman said that they would have to make some amendments to the regulations, which they would be a part of.

ADJOURNMENT
8:07 PM

The meeting was adjourned on a motion by Nogal and Sirucek at approximately 8:07 p.m. The next meeting will be held December 9, 2020.



Jeff Larsen, Chairman



Angela Phillips, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: _01_/_13_/2021